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Letter dated 6 August 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

I have the honour to attach herewith a copy of the agreement on outstanding issues in governance and the sharing of responsibilities signed in Khartoum on 5 August 2018 by the parties to the conflict in the sisterly Republic of South Sudan (see annex).

This important milestone, which comes in the framework of the Intergovernmental Authority on Development revitalization forum for peace in the Republic of South Sudan, embodies the positive contribution of the Republic of the Sudan to regional peace and stability.

I should be grateful if the present letter and its annex were circulated as a document of the Security Council.

(*Signed*) Magdi Ahmed Mofadal **Elnour**
Chargé d'affaires, a.i.

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Annex to the letter dated 6 August 2018 from the Chargé d'affaires a.i. of the Permanent Mission of the Sudan to the United Nations addressed to the President of the Security Council

Agreement on outstanding issues of governance

Mindful of our commitment under the Transitional Constitution of the Republic of South Sudan, 2011, (TCRSS) as amended, to lay the foundation for a united, peaceful and prosperous society based on justice, equality, respect for human rights and the rule of law,

Deeply regretting the scale of untold human suffering that has befallen our country and people as a result of disregarding this commitment,

Determined to compensate our people by recommitting ourselves to peace and constitutionalism and not to repeat mistakes of the past,

Recognizing the prime significance of preserving the sovereignty and territorial integrity of our country,

Cognizant that a federal system of government is a popular demand of the people of the Republic of South Sudan and of the need for the Revitalized TGoNU to reflect this demand by way of devolution of more powers and resources to lower levels of government,

Confirming the commitments that we have solemnly undertaken in the ARCSS and the Khartoum Declaration,

We the Parties, comprising of the Transitional Government of National Unity (TGoNU) of the Republic of South Sudan, the Sudan People's Liberation Movement/Army-In Opposition (SPLM/A-IO), the South Sudan Opposition Alliance (SSOA), Former Detainees (FDs) and Other Political Parties (OPP), collectively referred to as the Parties, confirm our commitment to the agreed parts of the Revised Bridging Proposal and do hereby resolve as follows:

1. **<u>The Presidency</u>:**

1.1. During the Transitional Period:

a. H.E. Salva Kiir Mayardit shall continue as the President of the Republic of South Sudan.

b. The Chairman of SPLM/A-IO Dr. Riek Machar Teny shall assume the position of the First Vice President of the Republic of South Sudan.

1.2. During the Transitional Period there shall be four Vice Presidents of the Republic of South Sudan who shall be nominated as follows:

a. Vice President to be nominated by Incumbent TGoNU.

b. Vice President to be nominated by SSOA.

c. Vice President to be nominated by Incumbent TGoNU.

d. Vice President to be nominated by FDs, who shall be a woman.

1.3. Apart from the First Vice President, there shall be no hierarchy among the Vice Presidents. The ranking in 1.2 above is for protocol purposes only.

1.4. Decision making in the Presidency shall be in the spirit of collegial collaboration. However, the powers and functions of the President, First Vice President, and Vice Presidents shall be delineated along the provisions of the ARCSS 2015.

1.5. The First Vice President and Vice Presidents shall oversee respectively the following Cabinet Clusters:

(a) First Vice President: Governance Cluster.

(b) Vice President: Economic Cluster.

(c) Vice President: Services Cluster.

(d) Vice President: Infrastructure Cluster.

(e) Vice President: Gender and Youth Cluster.

2. <u>The Revitalized TGoNU</u>:

2.1. The Council of Ministers shall comprise of thirty five (35) Ministers that shall be organized in the abovementioned five (5) Clusters.

2.2. The three Clusters stated in the ARCSS shall continue having due regard to the amendments required as a result of creating new Clusters and new Ministries.

2.3. The Infrastructure Cluster shall include Ministries of Energy and Dams; Transport; Roads and Bridges; and any other appropriate Ministry of the five new Ministries.

2.4. The Gender and Youth cluster shall include Ministries of Gender, Child and Social Welfare; Culture and Heritage, Youth, and Sports; and any other appropriate Ministry of the five new Ministries.

2.5. The additional five Ministries and their clustering shall be agreed by the Parties before or during the Pre-Transitional Period further to a proposal to be drawn by the IGAD. The full list of the thirty five (35) Ministries and their clustering shall be drawn at that time and shall be included in the Revitalized ARCSS.

2.6. The Ministerial positions shall be allocated as follows:

a. Incumbent TGoNU: 20 Ministries.

b. SPLM/A-IO: 09 Ministries.

c. SSOA: 03 Ministries.

d. FDs: 02 Ministries.

e. OPP: 01 Ministry.

2.7. There shall be ten (10) Deputy Ministers in the following Ministries:

a. Cabinet Affairs.

b. Foreign Affairs and International Cooperation.

c. Defense and Veteran Affairs.

d. Interior.

e. Justice and Constitutional Affairs.

f. Finance and Planning.

g. Agriculture and Food Security.

h. General Education and Instruction.

i. Public Service and Human Resources Development.

j. Information, Telecommunication, Technology and Postal Services.

2.8. Deputy Ministers shall be allocated as follows:

a. Incumbent TGoNU: five (5) Deputy Ministers.

b. SPLM/A-IO: three (3) Deputy Ministers.

c. SSOA: one (1) Deputy Minister.

d. OPP: one (1) Deputy Minister.

2.9. The Parties shall agree on the assigning of Ministerial and Deputy Ministerial portfolios as stated in the ARCSS if not agreed otherwise and nominate their Ministers and Deputy Ministers accordingly.

2.10. No fewer than three (3) of the Deputy Minsters shall be women.

2.11. No Assistant Presidents, other Ministers or Deputy Ministers shall be appointed during the Transitional Period.

2.12. If more than two Advisers to the President are appointed, their selection shall take place in consultation with the Parties.

3. **The Transitional National Legislature:**

3.1. The Transitional National Legislature (TNL) shall consist of the Transitional National Legislative Assembly (TNLA) and the Council of States.

3.2. The TNLA shall be expanded to 550 members and reconstituted as follow:

a. Incumbent TGoNU: 332 members.

b. SPLM/A-IO: 128 members.

c. SSOA: 50 members.

d. OPP: 30 members.

e. FDs: 10 members.

3.3. The Speaker of the TNLA shall be nominated by the Incumbent TGoNU. One Deputy Speaker shall be nominated by SPLM/A-IO; another, who shall be a woman, shall be nominated by the Incumbent TGoNU; and a third Deputy Speaker to be nominated by OPP.

3.4. Upon issuing the final report of the IBC the Council of States shall be reconstituted as shall be recommended by the IBC. However, if the IBC failed to issue its final report, the Council of states shall be reconstituted pursuant to the outcome of the referendum.

3.5. Without prejudice to the recommendations of the IBC, the Speaker of the Council of States shall be from SPLM-IO, Deputy Speaker from TGoNU, who shall be a woman, and Deputy Speaker from SSOA. For the purpose of regional inclusivity required in a body representing the States, each of the Speaker and Deputy Speakers shall come from a different region.

4. **Number and Boundaries of States:**

4.1. Within two weeks of the signing of the Revitalized ARCSS, the IGAD Executive Secretariat, taking into account the decision of the 55th Extra-Ordinary Session of the IGAD Council of Ministers held in Addis Ababa, Ethiopia, January 30–31, 2016, shall appoint an Independent Boundaries Commission (IBC) for the Republic of South Sudan.

4.2. The IBC shall consist of fifteen (15) members with the necessary skills and expertise.

4.3. Members of the IBC shall be appointed as follows:

a. Five (5) members to be appointed by Incumbent TGoNU.

b. Five (5) members to be appointed by opposition groups: two (2) from SPLM/A-IO, one (1) from SSOA, one (1) from FDs, and one (1) from OPP.

c. Five (5) highly experienced members to be appointed by C5 states (Algeria, Chad, Nigeria, South Africa and Rwanda).

4.4. The IBC shall be chaired by one of its non-South Sudanese members who shall be of recognized standing and integrity and who should have occupied a senior judicial, executive or administrative position in his/her home country.

4.5. The IBC may retain the services of a team of experts from South Sudan, the IGAD region, AU, the Troika, and the international community as required.

4.6. If found appropriate, the IBC shall establish three teams, each consisting of five representatives and relevant experts, to be deployed at locations it will designate.

4.7. The function of the IBC shall be to consider the number of States of the Republic of South Sudan, their boundaries, the composition and restructuring of the Council of States and to make recommendations on the same.

4.8. The IBC shall study all viable alternatives in the light of guidelines that shall be drawn beforehand and right at the beginning of its work. The IBC shall also draw its own internal regulations. Adoption of the guidelines and internal regulations shall be by simple majority of the IBC.

4.9. The IBC shall strive to adopt its final report by consensus. If consensus is not achieved, the IBC shall adopt its final report by a decision that shall be supported by at least seven (7) of its South Sudanese members.

4.10. The recommendations of the IBC shall be presented to the IGAD Executive Secretariat and shall be immediately communicated to the Parties.

4.11. The Parties agree to abide by the recommendations of the IBC, and hereby authorize the IGAD Executive Secretariat to enshrine the same in the Revitalized ARCSS as an addendum. The Parties accept to implement the recommendations in full at the beginning of the Transitional Period.

4.12. The IBC shall complete its work within a maximum of ninety (90) days that shall not be extendable.

4.13. In the unlikely event of the IBC failing to make its final report before the end of its term, the IBC shall be automatically transformed on the 90th day of its term into Referendum Commission on Number and Boundaries of States (RCNBS) of the Republic of South Sudan.

4.14. The RCNBS shall work under the direct supervision and support of the African Union and the IGAD, and pursuant to international guidelines, and shall conduct the referendum before the end of the agreed eight (8) months Pre-Transitional Period.

4.15. The referendum shall be conducted on the number and boundaries of the States of the Republic of South Sudan; taking account of the positions advanced by Parties. The question or set of questions that shall be posed in the referendum shall be the same for the entire country unless it is decided in the RCNBS that each State shall have different question or set of questions more understandable to the people.

4a

4a.1. Immediately upon the signing of the Revitalized ARCSS, the IGAD Mediation shall appoint a Technical Boundary Committee (TBC) to define and demarcate the

tribal areas of South Sudan as they stood on 1 January 1956 and the tribal areas in dispute in the country.

4a.2. The TBC shall consist of a suitable number of experts drawn from IGAD and Troika Countries.

4a.3. The TBC shall receive presentations from local communities and any South Sudanese and study them. It shall finish its work within sixty (60) days.

4a.4. The decision of the TBC shall be by consensus. In the event that consensus is not achieved, the decision shall be by simple majority and any dissenting view shall be recorded.

4a.5. Immediately upon completion of its work, the TBC shall present its report including dissenting views, if any, to the IGAD Mediation.

4a.6. The IBC and RCNBC shall take full account of the report of the TBC which shall form the basis of their decision and formulation of the question of the referendum.

4a.7. In the event that any tribe claims that the TBC report is violated, that tribe is entitled to resort within a maximum of two years of the alleged violation to arbitration and bring its case against the Revitalized TGoNU or any subsequent government of the Republic of South Sudan before the Permanent Court of Arbitration at The Hague. The Revitalized TGoNU or any subsequent government agrees to abide by the arbitration award and shall introduce any required state boundary rectifications.

5. States and Local Government

5.1. The responsibility sharing at State and local government levels shall be in accordance with the following ratio:

a. Incumbent TGoNU: 55%.

b. SPLM/A-IO: 27%.

c. SSOA: 10%.

d. OPP: 8%.

5.2. At the beginning of the Transitional Period State and local governments shall be reconstituted as per the responsibility sharing formula stated above.

5.3. The positions that shall be shared as per the responsibility sharing formula are: Governors, Speakers of State Legislatures, State Councils of Ministers, State Legislatures, County Commissioners, and County Councils (if any).

5.4. In sharing State and local government positions the Parties shall take into account the relative prominence each Party has in the respective State or county.

5.5. The FDs shall have three State Ministers in States of their choice that shall be deducted from the opposition ratio.

6. General Provisions:

6.1. The Parties recognize that during the Pre-Transitional Period, the Incumbent TGoNU shall continue to exercise its powers as per the TCRSS.

6.2. At the beginning of the Pre-Transitional Period, the Parties shall issue a solemn commitment to their people and the international community at large confirming unequivocally that they will not return to war and shall work hand in hand diligently and collectively for the sake of peace and stability of their country. In particular, the Parties shall pledge to use the resources of the country wisely and transparently, for

the best interests of the people of the Republic of South Sudan, and to put in place the efficient mechanisms for achieving this paramount goal. In their solemn commitment the Parties shall also appeal to the international community for support and cooperation at this difficult time of the Republic of South Sudan.

6.3. The activities that shall be undertaken during the agreed eight (8) months Pre-Transitional Period shall include:

a. Dissemination of the Revitalized ARCSS to South Sudanese people inside the country, in different cities and refugee camps in neighboring countries, and in Diaspora, so that the people can understand, support and own it.

b. Carrying out the tasks entrusted to the IBC and the RCNBS.

c. A process of national healing and reconciliation that shall be led by the Parties, churches and civil society groups inside and outside of the Republic of South Sudan.

d. The agreed security arrangement activities.

e. Incorporation of the Revitalized ARCSS in the TCRSS.

f. Reviewing and drafting necessary bills as per the Revitalized ARCSS.

g. Any other activities agreed by the Parties including the devolution of more powers and resources to lower levels of government.

6.4. Provisions of the Transitional Constitution of the Republic of South Sudan and ARCSS on participation of women (35%) in the Executive shall be observed. In particular, in their nomination to the Council of Ministers Incumbent TGoNU shall nominate no fewer than six (6) women, SPLM-IO shall nominate no fewer than three (3) women, and SSOA shall nominate no less than one (1) woman.

6.5. Having in mind that more than 70 percent of the population in the Republic of South Sudan is under the age of thirty and that youth are the most affected by the war and represent high percentage of refugees and IDPs, the Parties shall strive to include people of young age in their quotas at different levels, in particular, the Parties shall strive that the Minister of Culture, Youth, and Sports in the Revitalized TGoNU shall be less than forty (40) years old.

6.6. In selecting their nominees, the Parties shall give due consideration to national diversity, gender and regional representation.

6.7. Without prejudice to the provisions of Paragraph 6.1 above, a National

Pre Transitional Committee (NPTC) shall be formed as follows by the President of the Republic of South Sudan within two weeks of signing the Revitalized ARCSS:

a. The NPTC shall be formed of ten (10) members representing the Parties as follows: five (5) for Incumbent TGoNU, two (2) for SLPM/A-IO, one (1) for SSOA, one (1) for FDs, and one (1) for OPP. The NPTC shall be chaired by TGoNU representative with two Deputy Chairs to be nominated by SPLM/A-IO and SSOA respectively, and shall adopt its decisions by consensus.

b. The NPTC shall be entrusted with the function of oversight and coordination of the implementation of the activities of the Pre-Transitional Period stated in 6.3 above in collaboration with the Incumbent TGoNU.

c. The NPTC shall draw the road map for implementing the political tasks of the Pre-Transitional Period, prepare a budget for the activities of the Pre-Transitional Period, and address issues of VIP security as per security arrangements and preparations for new Ministers, among others.

6.8. There shall be established a fund, to be drawn from government funds and contributions of donors, for the implementation of the activities of the Pre Transitional Period. The fund shall be deposited by Incumbent TGoNU in a special account in a bank agreed to by the NPTC. The NPTC shall manage the fund transparently and report on it monthly to the President of the Republic of South Sudan and to the Parties.

6.9. The IGAD-led mediation shall revitalize and restructure all monitoring and evaluation mechanisms to ensure inclusion of all Parties and to enhance the effectiveness of all mechanisms. Such review and restructuring shall be reflected in the Revitalized ARCSS.

6.10. Within twelve (12) months of the beginning of the Transitional Period, the Reconstituted National Constitutional Amendments Committee (NCAC) shall revise relevant laws and draft new legislations pursuant to the Revitalized ARCSS.

6.11. The Parties reaffirm their commitment to the ARCSS that a federal and democratic system of governance that reflects the character of the Republic of South Sudan and ensures unity in diversity be enacted during the permanent constitution making process.

6.12. The Parties also reaffirm their commitment to the principle of lean government and that the number of members of the future legislatures shall be commensurate with the number of the population of the country pursuant to the internationally recognized proportions. The Parties recognize that the high number of members of the Executive and TNLA is agreed herein on exceptional basis for the purposes of the Transitional Period only and that those numbers shall form no precedent or any precursor for the future.

6.13. This Agreement shall prevail on contradictory or incompatible provisions of ARCSS, any other agreement and the Revised Bridging Proposal.

Done in Khartoum, Sudan, this day 5th of August 2018.

For Incumbent TGoNU

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H.E. Salva Kiir Mayardit

President of the Republic of South Sudan

For SPLM/A-IO

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Dr. Riek Machar Teny

Chairman of the SPLM/A-IO

_____

For SSOA

_____

For FDs

_____

For OPP

Francis Madeng Deng

Eminent Personalities

Mohamed Morjan

Faith Based leaders

Sarah Nayanth Elijah Yang

Civil Society Organization Outside (CSO Outside)

Alokiir Malwal Anguer

Civil Society Organization (CSO)

Amer Manyok Deng

Women Block of South Sudan

Witnesses:

For AU

For IGAD

For UN

Guarantors:

For the Republic of Sudan

H.E. Omer Hassan Ahmed Al Bashir
President of the Republic of Sudan

For the Republic of Uganda

H.E. Yoweri Museveni
President of the Republic of Uganda